

Secretarial Commission on Indian Trust Administration and Reform

Outline of Recommendations v3

Note: *Comments from the February 2013 public meeting need to be reviewed, considered and integrated into the outline below by Commissioners.*

EXECUTIVE SUMMARY

INTRODUCTION AND BACKGROUND

TRUST RESPONSIBILITY STATEMENT

The items below are elements to include in the statement (if not already in the draft). List needs to be reviewed against current draft and comments from February public meeting reviewed and considered.

- Historical context and how trust relationship was interpreted and understood at the time of treaties
- Tribes are sovereign
- Greater role of tribes implementing trust responsibility
- Long-term nature of responsibility and relationships
- Touch on the larger Federal Trust and key trust principles (*could be a more detailed policy statement in next section as well*)
- Link to government-to-government relationship; guiding principles of the trust relationship that are reflected in the g-t-g Presidential Memorandum
- Right of self-determination and self-governance (*more detailed policy statement in next section as well?*)
- Link to UN Declaration on Indigenous Human Rights

POLICY STATEMENTS from COMMISSION

- Conflict of Interest Protocols/Code of Conduct
 - Explore what is role of other agencies outside of Interior?
- Managing Liability and Settlement Issues: e.g. managing risk; risk averseness and settlement language that balances the liability (sense of overreaching and concern about taking on too much liability)
- Accountability to Uphold Trust: What happens if it is absent or is too slow? Are there incentives that the Commission can recommend e.g. timelines/deadlines in which a response is required by the Secretary or designee. Oversight of trust, enforcement

- Enforcement capabilities: What are the remedies other than litigation? Can negotiation be the first step with less bureaucracy?
- Recommendations specific to Commission Charter
- Mechanism: organize a work session for the above; identify what want as recommendations, hear from tribes and agencies

ADMINISTRATIVE RECOMMENDATIONS

Note: This section will be based on Commissioner review of findings and recommendations of the management consultant and feedback from Indian Country about the consultant recommendations. The management consultant products and recommendations are expected to identify areas where Departmental changes are possible and where longer term legislative solutions may be required.

- Secretarial powers and administrative authorities – individual or delegated and where scope of authority derived from - whether authority of Secretary is statutory, regulatory, or....
- Recommendations to update policies in order to reflect self-determination and self-governance
 - What are the areas that existing law is utilized to uphold self-determination and self-governance; how can these be strengthened, highlight these as a baseline; specific examples of services, programs that are going well.
- Recommendations that identify where new policy, procedures etc. may be needed for emerging issues such as climate change
- Recommendations that improve the timeliness, notice, and approvals of actions and transactions that impact allottees and tribal governments (e.g. appraisals, leasing, probate)
- Recommendations that look at local control as it relates to compacting/contracting, land consolidation and resource management.
 - Possible examples: Navajo Nation Local Governance Act and from testimony to Commission
- Leasing
- Appraisal Function
- Probate
- Real estate
 - Possible future policies? Example: split estates and interest of some allottees to sell mineral estate but keep surface rights.
- Water rights settlements
- Strengthening communications – for individuals, tribes, DOI and other federal agencies

- Recommendations regarding coordination sharing of technology; data ; records between DOI, Tribes and between DOI and other agencies e.g., USDA
- Responses to topics in letter from Deputy Secretary Hayes (and/or integrate into above)
- Recommendations specific to Commission Charter

APPENDICES

UN Declaration of Indigenous Human Rights

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